

REMARKS/ARGUMENTS

The Applicants have carefully considered this application in connection with the Examiner's Action and respectfully request reconsideration of this application in view of the foregoing amendment and the following remarks.

The Applicants originally submitted Claims 1-20 in the application. The Applicants have amended Claims 1 and 8 and canceled Claims 3 and 10. Accordingly, Claims 1-2, 4-9 and 11-20 are currently pending in the application.

I. Rejection of Claims 1-2, 4-9 and 11-20 under 35 U.S.C. §103

The Examiner has rejected Claims 1-2, 6, 8-9, 13, 15-16 and 19 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,122,271 to McDonald, *et al.* ("McDonald"). The Examiner has also rejected Claims 5, 12 and 18 under 35 U.S.C. §103(a) as being unpatentable over McDonald in view of U.S. Patent No. 6,130,898 to Kostreski, *et al.* ("Kostreski"). The Examiner has also rejected Claims 4, 11 and 17 under 35 U.S.C. §103(a) as being unpatentable over McDonald in view of U.S. Patent No. 5,170,490 to Cannon, *et al.* ("Cannon"). In addition, the Examiner has rejected Claims 7, 14 and 20 under 35 U.S.C. §103(a) as being unpatentable over McDonald in view of U.S. Patent No. 6,014,227 to Terence Edward Summer. The Applicants respectfully disagree.

With respect to Claims 1-2, 6, 8-9, 13, 15-16 and 19, the Examiner has failed to establish a *prima facie* case of obviousness with respect to McDonald. The Examiner has stated that Figure 2 of McDonald discloses a transmitter that is associated with a base station of a cordless telephone and a receiver associated with a handset of the cordless telephone. (Examiner's Action, page 3). However, Figure 2 of McDonald does not teach or suggest a transmitter associated with a base

station of a cordless telephone and a receiver associate with a handset of the cordless telephone as recited in Claims 1, 8 and analogous limitations in Claim 15. Figure 2 of McDonald merely teaches plurality of mobile subscriber units communicating with a fixed network equipment. (Figure 2, and Column 4, lines 32-36). One skilled in the art knows that a fixed network equipment is not a base station of a cordless telephone. A fixed network equipment is a piece of equipment of a telecommunications network that primarily provides switching and transport network functions, such as signaling transfer points, cell equipment (towers, antennas and interfaces for cellular telephones) and digital cross-connect systems. Basically, fixed network equipment are pieces of equipment associated with the infrastructure of the telecommunications network. In contrast, a cordless telephone is an endpoint, which is typically used with public switched telephone networks and located at a customer's location, and, as such, is not a fixed network equipment.

In addition, mobile subscriber units are not the same as a handset of a cordless telephone. Mobile subscriber units are commonly associated with cellular telephone systems and McDonald specifically mentions the invention solving problems in digital cellular telephone systems. (Column 1, lines 62, through Column 2, line 22). McDonald does not even mention a cordless telephone nor any applicability to a cordless telephone. Moreover, McDonald did not redefine the terms "fixed network equipment" and "mobile subscribers" to be something else than what is known to one skilled in the art. Thus, McDonald fails to teach or suggest all the elements of the Applicants' claimed invention as recited in independent Claims 1, 8 and 15. Since McDonald fails to teach or suggest all of the elements of the inventions of Claims 1, 8 and 15, the Examiner cannot establish a *prima facie* case of obviousness of dependent Claims 2, 6, 9, 13, 16 and 19, which include the

elements of the respective independent claims. The Applicants therefore respectfully traverse the Examiner's rejection of Claims 1-2, 6, 8-9, 13, 15-16 and 19 under 35 U.S.C. §103.

With respect to Claims 5, 12 and 18, the Examiner has failed to establish a *prima facie* case of obviousness with respect to McDonald in view of Kostreski. The Examiner has stated that McDonald fails to disclose that said data comprises menu item selection data. (Examiner's Action, page 3). The Examiner has cited Kostreski only for the premise that Kostreski discloses said data comprises menu item selection data. The Examiner further stated it would have been obvious to one skilled in the art to combine the teaching of Kostreski with McDonald to develop the Applicants' claimed inventions. (Examiner's Action, page 3). As discussed above, McDonald fails to teach or suggest all the elements of the inventions recited in independent Claims 1, 8 and 15. Kostreski fails to cure the deficiencies of McDonald and fails to teach or suggest, among other things, a system and method of communicating data over a voice channel between a transmitter and a receiver that includes identifying a pause in voice traffic that is to be transmitted over the voice channel, wherein the transmitter is associated with a base station of a cordless telephone and the receiver is associated with the handset of the cordless telephone as recited in Claims 1, 8 and 15. Kostreski merely teaches a system that uses a wireless packet data network to provide interactive video services. (Column 7, lines 58-67). Kostreski also teaches that a viewer may make selections via a remote control and a digital entertainment terminal, which will cause a gateway to issue frame number commands. (Column 28, lines 50-55). Since Kostreski fails to cure the deficiencies of McDonald and McDonald fails to teach or suggest all of the elements of the inventions of Claims 1, 8 and 15, the Examiner cannot establish a *prima facie* case of obviousness of dependent Claims 5, 12 and 18, which include

the elements of the respective independent claims. The Applicants therefore respectfully traverse the Examiner's rejection of Claims 5, 12 and 18 under 35 U.S.C. §103.

With respect to Claims 4, 11 and 17, the Examiner has failed to establish a *prima facie* case of obviousness with respect to McDonald in view of Cannon. The Examiner has stated that McDonald fails to disclose that said data comprises caller identification data. (Examiner's Action, page 4). The Examiner has cited Cannon only for the premise that Cannon discloses said data comprises caller identification data. The Examiner further stated it would have been obvious to one skilled in the art to combine the teaching of Cannon with McDonald in order to recognize other party caller identification. (Examiner's Action, page 4). As discussed above, McDonald fails to teach or suggest all the elements of the inventions recited in independent Claims 1, 8 and 15. Cannon fails to cure the deficiencies of McDonald and fails to teach or suggest, among other things, a system and method of communicating data over a voice channel between a transmitter and a receiver that includes identifying a pause in voice traffic that is to be transmitted over the voice channel, wherein the transmitter is associated with a base station of a cordless telephone and the receiver is associated with the handset of the cordless telephone as recited in Claims 1, 8 and 15. Cannon merely teaches that an ID of a listener's radio to be called along with synchronization information or other signaling data may be used by the called unit for frame synchronization. Cannon also teaches that when the called unit achieves synchronization and the called unit detects its ID, the called unit sends a control signal burst designated as a SYNC. (Column 6, lines 10-17). However, the section cited by the Examiner does not disclose "caller identification data" as known to one skilled in the art... Since Cannon fails to cure the deficiencies of McDonald and McDonald fails to teach or suggest all of the elements of the inventions of Claims 1, 8 and 15, the Examiner cannot establish a *prima facie* case

of obviousness of dependent Claims 4, 11 and 17, which include the elements of the respective independent claims. The Applicants therefore respectfully traverse the Examiner's rejection of Claims 4, 11 and 17 under 35 U.S.C. §103.

With respect to Claims 7, 14 and 20, the Examiner has failed to establish a *prima facie* case of obviousness with respect to McDonald in view of Summer. The Examiner has stated that McDonald fails to disclose that said silence detector identifies said pause by comparing a peak energy of said voice traffic to a noise floor reference. (Examiner's Action, page 4). The Examiner has cited Summer only for the premise that Summer discloses said silence detector that identifies said pause by comparing a peak energy of said voice traffic to a noise floor reference. The Examiner further stated that it would have been obvious to one skilled in the art to combine the teaching of Summer with McDonald to develop the Applicants' claimed inventions. (Examiner's Action, page 4). As discussed above, McDonald fails to teach or suggest all the elements of the inventions recited in independent Claims 1, 8 and 15. Summer fails to cure the deficiencies of McDonald and fails to teach or suggest, among other things, a system and method of communicating data over a voice channel between a transmitter and a receiver that includes identifying a pause in voice traffic that is to be transmitted over the voice channel, wherein the transmitter is associated with a base station of a cordless telephone and the receiver is associated with the handset of the cordless telephone as recited in Claims 1, 8 and 15. Summer merely teaches a receiver for receiving a modified voice message that includes a modified silent portion having a transmission duration. Summer also includes a processing system coupled to the receiver for processing the modified voice message to detect the modified silent portion and to measure the transmission duration. (Column 1, line 66, through Column 2, line 4). Since Summer fails to cure the deficiencies of McDonald and McDonald

fails to teach or suggest all of the elements of the inventions of Claims 1, 8 and 15, the Examiner cannot establish a *prima facie* case of obviousness of dependent Claims 7, 14 and 20, which include the elements of the respective independent claims. The Applicants therefore respectfully traverse the Examiner's rejection of Claims 7, 14 and 20 under 35 U.S.C. §103.

McDonald, individually or in combination with Kostreski, Cannon and Summer, fails to teach or suggest the invention recited in independent Claims 1, 8 and 15 and their dependent claims, when considered as a whole. Claims 1-2, 4-9 and 11-20 are therefore not obvious in view of McDonald, Kostreski, Cannon and Summer.

In view of the foregoing remarks, the cited references do not support the Examiner's rejection of Claims 1-2, 4-9 and 11-20 under 35 U.S.C. §103(a). The Applicants therefore respectfully request the Examiner withdraw the rejections.

II. Conclusion

In view of the foregoing amendment and remarks, the Applicants now see all of the Claims currently pending in this application to be in condition for allowance and therefore earnestly solicit a Notice of Allowance for Claims 1-2, 4-9 and 11-20.

Attached hereto is a marked-up version of the changes made to the specification and claims by the current amendment. The attached page is captioned "Version with markings to show changes made."

The Applicants request the Examiner to telephone the undersigned attorney of record at (972) 480-8800 if such would further or expedite the prosecution of the present application.

Respectfully submitted,

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APPLICATION NO. BANIK 2-73

VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE CLAIMS:

- 1) Kindly rewrite Claim 1 as follows:

1. For use in communicating data over a voice channel between a transmitter and a receiver, a system comprising:

a silence detector, coupled to said transmitter, that identifies a pause in voice traffic that is to be transmitted over said voice channel and generates an interjection signal during said pause; and

a data injector, coupled to said silence detector, that receives said interjection signal and responds by causing said transmitter to transmit data to said receiver over said voice channel, wherein said transmitter is associated with a base station of a cordless telephone and said receiver is associated with a handset of said cordless telephone.

- 2) Please cancel Claim 3 without prejudice or disclaimer.

- 3) Kindly rewrite Claim 8 as follows:

8. A method of communicating data over a voice channel between a transmitter and a receiver, comprising:

identifying a pause in voice traffic that is to be transmitted over said voice channel; and

responding to said pause by causing said transmitter to transmit data to said receiver over said voice channel, wherein said transmitter is associated with a base station of a cordless telephone and said receiver is associated with a handset of said cordless telephone.

- 4) Please cancel Claim 10 without prejudice or disclaimer.